

STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF ELKHART    )

IN THE ELKHART CIRCUIT COURT

CAUSE NO. 20C01-0208-PL-498

STATE OF INDIANA,        )

Plaintiff,                )

v.                         )

BRIAN ANDERSON         )

and                        )

JON PAUL SCHELL        )

Defendants.                )

**FILED**  
IN OPEN COURT

FEB 13 2004

CLERK ELKHART CIRCUIT COURT

**CONSENT JUDGMENT AGAINST BRIAN ANDERSON ONLY**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Defendant, Brian Anderson, hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as an abandonment by the Attorney General of his position that the Defendant violated Indiana's Deceptive Consumer Sales Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

**JURISDICTION AND SCOPE OF JUDGMENT**

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint for Injunction, Restitution, Costs, and Civil Penalties states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*

3. The Defendant, Brian Anderson, has engaged in the sale of goods via Internet auctions from his home in Elkhart County.

RELIEF ORDERED

4. The Defendant, Brian Anderson, is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. engaging in the sale of items via the Internet,
- b. representing either orally or in writing that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should know that it does not have;
- c. representing either orally or in writing that the subject of a consumer transaction will be supplied to the public in greater quantity than the Defendant intends or reasonably expects, when the Defendant knows or reasonably should know that it will not;
- d. representing either orally or in writing that the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when he knows or reasonably should know that he can not; and

- e. representing either orally or in writing that the consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendant, when he does not intend to sell it.

5. The contract previously entered into by Defendant Anderson with consumer Trent Finlinson is cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

6. The Defendant shall pay consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2), for Trent Finlinson of Layton, Utah, in the amount of Nine Hundred and Twenty Dollars (\$920.00), payable to the Office of the Attorney General;

7. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code §24-5 -0.5-4(c)(3), the amount of Two Thousand Three Hundred and Seventy-Five Dollars and Thirty-Seven Cents (\$2,375.37), representing the Plaintiff's costs of investigating and prosecuting this action.

For a total monetary judgment in the amount of Three Thousand Two Hundred and Ninety-Five Dollars and Thirty-Seven Cents (\$3,295.37).


#### CONTINUING JURISDICTION

8. For the purpose of enforcing the provisions of this Consent Judgment, any subsequent Court that obtains jurisdiction over the Defendant based on a complaint alleging a violation of any law that is the subject of this Consent Judgment may take judicial notice of this Judgment and is deemed to be a proper venue for interpretation and enforcement of this agreement. The Defendant waives any objection regarding a Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Judgment.


IN WITNESS WHEREOF, the parties have executed this Consent Judgment this 13  
day of February, 2004.

STATE OF INDIANA  
STEVE CARTER  
Indiana Attorney General

  
BRIAN ANDERSON

by:   
Terry Tolliver  
Deputy Attorney General  
Attorney No. 22556-49

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED  
this 13<sup>th</sup> day of February, 2004.

  
Judge, Elkhart Circuit Court

Distribution:

Terry Tolliver  
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